keeping with the spirit of the E-Rate Program. Sprint, therefore, has not proposed any repayment associated with this apparent clerical error by Miami-Dade.

I. Substitution of School Locations

In the course of its audit, Sprint was unable to reconcile all of its physical installation records with the approved funding requests. It appears that after filing its Form 471 application, Miami-Dade must have asked that the approved key systems be installed at different locations than those listed in the Form 471. This type of substitution occurred a total of eight times between Funding Years 1998 and 1999. While it does not appear that Miami-Dade filed corresponding service substitution forms, we see no evidence that these errors were intentional. We reviewed Miami-Dade's other Form 471 applications that referenced the eight schools in question to determine discount percentages. We observed no effort to exchange funding approval for a high discount school (80% or 90%) for installation at a low discount school. Instead, either the switched schools had the same discount percentages or an 80% approval was used to install equipment at a 90% school. Sprint also confirmed that each school received only one key system installation and that each school received E-Rate funding for a key system only once within the 1998 and 1999 Funding Years.

Sprint has included those eight schools in its overpayment calculations above to the extent that these schools were affected by those issues. We have proposed no further repayment because the goals of the E-Rate program were fulfilled. The eight schools received essential, eligible telecommunications equipment, at the appropriate discount levels approved by USAC. We found no intent to deceive USAC through these substitutions. We further note that the E-Rate program guidelines, particularly those related to service locations and service substitutions, were somewhat fluid during the first two years.

V. SPRINT'S INVESTIGATION OF OTHER MIAMI-DADE TRANSACTIONS

A. Background and Methodology

Sprint employed a sampling methodology in assessing the 355 transactions that were not included in the Request or the similar Funding Year 1998 elementary school key systems. We began by stratifying the population based on similarities in equipment packages and the amounts submitted for approval on Miami-Dade's Form 471 Applications. We identified six well-defined sets of transactions and one "catch-all" set for those transactions that did not fit into the six heterogeneous sets.

Package One: Package Two: Uninterruptible Power Supply for Elementary Schools Uninterruptible Power Supply for Elementary Schools and

Educational Centers

Package Three: Package Four: Analog Station Modules for Elementary Schools

Nortel Option 11c Private Branch Exchange system (PBX)

for Middle Schools

Package Five:

Nortel Option 11c PBX for Middle Schools

¹² See Note 5 supra.

Package Six:

Nortel Option 11c PBX for High Schools

Package Seven:

Unclassifiable

Sprint then audited samples (between 12 and 30 percent, based on package value and total population size of each set) of the six heterogeneous sets. The variances between transactions within each set were minimal, giving us confidence in extrapolating the sample results across the entire population of each set. For the seventh set, Sprint audited every transaction. We observed no errors requiring repayment in Packages One or Two.

Even with a sampling approach, Sprint audited 22.5 percent of the 355 transactions, representing 54 percent of the amounts paid by USAC in connection with these transactions. We believe our approach is valid and appropriate, and we are prepared to make repayments based on the results discussed below.⁴³

The audits revealed two types of mistakes: invoicing USAC for ineligible equipment and returns of eligible equipment without USAC and Miami-Dade invoice adjustments. We also identified one transaction for which Sprint was unable to find sufficient supporting documentation, even though USAC funded the transaction.

B. Discrepancies Between Sprint Bids, Miami-Dade 471s, and Sprint Installations

As discussed above, differences between Sprint's bid, Miami-Dade's Form 471 application and Sprint's installation, costing and billing records resulted in overpayments by USAC. We observed variant forms of this error in four of the six heterogeneous sets and in all of the unique Package Seven transactions.

In Package Three, Sprint observed small pricing discrepancies between its ICAs and Miami-Dade's Form 471 Applications. In Package Four, Sprint's ICAs generally matched Miami-Dade's Form 471 Applications. Sprint, however, provided Miami-Dade with certain incligible components in these transactions that subsequently were invoiced on a pro-rate basis to USAC.

In Packages Five and Six (and many transactions in Package Seven), Sprint submitted bids to Miami-Dade to provide a small PBX with a package price of approximately \$35,000 for middle schools and \$55,000 for high schools. For some of these schools, Miami-Dade also requested a voicemail system, ineligible for E-Rate funding, costing about \$14,000. Miami-Dade's corresponding Form 471 Applications for all of these schools requested funding for a much larger PBX costing nearly \$125,000. USAC approved Miami-Dade's funding request for the larger PBX, but Sprint installed the smaller PBX and voicemail system originally proposed.

[&]quot; See! See E " See E " See E

Sprint invoiced for the total package actually installed, apportioning costs between Miami-Dade and USAC based on each school's discount percentage. In the majority of these installations, Sprint invoiced Miami-Dade separately for the ineligible voicemail, without any corresponding invoice to USAC. In others, however, it appears that the individual eligible item prices were reduced so that the voicemail system was partially funded by USAC. The costs of the ineligible and eligible items were not separated, resulting in the total installed package treated as eligible. Accordingly, E-Rate funds were used to subsidize purchases of telephone handsets, voice mall and other ineligible components of these PBX systems. Based on our sample, we calculated USAC's overpayment toward ineligible equipment to be \$512,005.

We have no evidence that Miami-Dade filed a service substitution request to install the smaller PBX, though we are confident that USAC would have approved such a request. As a result of the substitution and Sprint's correct application of each school's discount percentage, Miami-Dade received the same functionality that USAC had approved, but at a substantially reduced cost to Miami-Dade and to USAC. Accordingly, we believe that USAC's full overpayment for these transactions is captured in the incligible equipment described in Attachment #2 to this Supplemental Response.

C. Returns of Eligible Equipment Without Invoice Adjustment

As in the 202 elementary schools that received key systems, Sprint found that Miami-Dade occasionally returned equipment components within the remaining population of E-Rate transactions. Sprint did not adjust its invoicing for these returns and exchanges by Miami-Dade. This approach was appropriate for any equipment that was not eligible for or purchased with E-Rate funds.

Our audit revealed, however, that Miami-Dade returned some components of Packages Five and Six, along with some components of deals in Package Seven, that were purchased with E-Rate funding. Sprint did not make a corresponding adjustment to USAC invoices for these transactions. We therefore agree to repay USAC \$11,981 in connection with these exchanges.

Lack of Documentation for One Transaction

Sprint engaged in an E-Rate transaction during Funding Year 1998 with Avocado Elementary School, documented on Funding Request No. 136407. We have confirmed that USAC paid Sprint \$77,187.01 in connection with Miami-Dade's purchases for this school. Despite our best efforts, however, this is the one transaction for which Sprint's audit has not identified sufficient supporting documentation from which to evaluate the transaction fully. This transaction was therefore excluded from the seven groups discussed above.

[.]

Recognizing the difficulties posed by incomplete records, Sprint has elected to treat this transaction as one for which USAC is likely entitled to some refund. The average overpayment rate for transactions in the seventh set was approximately 19%. The highest individual overpayment for Package Seven, however, was 64.32%. As a sign of Sprint's willingness to reimbanse USAC for the full measure of any overpayment, we have applied this highest-single-transaction error rate to the Avocado Elementary payment received from USAC. Sprint therefore will repay \$49,647 to USAC in connection with this funding request.

VII. CONCLUSION

Sprint has attached a detailed breakout of specific amounts allocable to each Miami-Dade funding request. Although we believe the exhibits to this Response provide sufficient detail for USAC to verify our accounting for each transaction, we will cooperate fully with USAC to provide any additional information required. We are prepared to repay all enconcously disbursed B-Rate funds associated with the Miami-Dade transactions upon confirmation from USAC of the amount due.

Sprint has acted in good faith in bringing forward new information related to Miami-Dade, sharing our process and findings with USAC, and implementing appropriate remedies to problems identified. We are committed to providing service to eligible schools and libraries in full compliance with E-Rate program rules. If you have any further questions, please contact me.

Sincerely,

SPRINT

Michael P. Allen Vice Bresident, Law 6450 Sprint Parkway Overland Park, KS 66251 MS: KSOPHN0304-3B121 Nancy L. Shelledy
Vice President, Law
6450 Sprint Parkway
Overland Park, KS 66251
MS: KSOPHN0412-4A223

Our .

See Attachment #1.

Funding Year 1 and 2 (1998-2000): 202 Elementary Schools Mami-Dade County

School Numer First Number Fundanty Fare Market Security				E-Rate Discount	USAC Wire		Amount Reimbursed to the SLD from Sprint	Amount Reimbursed to the \$LD	Total Amount
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Excell First Fir	Bowman Foster Ash	219076		50%	C000062913	\$6,228.50		254.31	1,392.54
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		-104141	190/9	10% CO	00052913	\$11,211,30	4,583.51	258,31	4,841,82

CONFIDENTIAL TREATMENT REQUESTED

Funding Year-1 and 2 (1998-2000): 202 Elementary Schools Miami-Dade County

Luciore Mann Wellers Mann Wellers March P.C. Mendow Lance Mayer Carciers Mann's Heights Mineral Heights Mineral Heights Mineral Lakes Mineral Sporces Mineral	218276 218277 218277 218277 218272 219222 219425 219437 219437 219443 219443 219446 219446 219446 219446 219446 219446 219446 219446 219450 21	1990	80% 80%	Huselbear	Transfer Americal \$9,985,90 \$11,211,30 \$1,474,20 \$1,985,90 \$11,211,30 \$1,985,90 \$11,211,30	Giscrepancy) 4,074.23 4,581.61 3,084.67 4,074.23 4,583.51 4,074.23 4,583.51 4,074.23 4,583.51	[returns] 256.31	4.84 £ 4.52 £ 6.00 £ 7.
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Ner Hoover chard Vide win Lakes in Lakes in Lakes in Springe Nin innesco chorier solver solve	219455 219469 219461 219463 219465 219467 219474 219474 219477 219484 219485 219485 219485 219486	1990 1999 1999 1990 1990 1990 1990 1900 1900 1950 195	50% C 50% C	2000052913 2000052913 2000052913 2000062913 2000062913 2000052913 2000052913 2000052913 2000052913 2000052913 2000052913 2000052913 2000052913 2000052913	\$4,28.50 \$11,211,30 \$5,221,60 \$11,211,30 \$9,966,60 \$7,774,20 \$6,220,50 \$11,211,30 \$11,211,30 \$11,211,30 \$11,211,30 \$11,211,30 \$11,211,30 \$11,211,30	2,546,40 4,583,51 2,945,40 4,583,51 4,574,22 3,085,57 2,546,40 4,583,51 4,574,72 4,563,51 4,563,51 4,563,51	258.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31	2,504,71 4,841,82 2,860,11 4,841,82 4,332,54 3,313,88 3,313,88 4,841,82 4,8
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sers Lakes size Springe Nah size Springe	219465 2194667 219467 219474 219474 219477 219477 219480 219480 219484 219486	1990 1990 1999 1999 1990 1990 1990 1990	90% C 90% C 90% C 90% C 90% C 90% C 90% C 90% C 90% C 90% C	200062915 200062913 200062913 200062913 200062913 200062913 200062913 200062913 200062913 200062913 200062913 200062913 200062913	\$11,211,30 \$9,868,60 \$7,474,20 \$6,228,50 \$11,211,30 \$11,211,30 \$1,211,30 \$11,213,30 \$11,213,30 \$11,213,30	2.544.60 4.581.81 4.574.23 3.085.57 2.546.40 4.591.51 4.581.51 4.074.23 4.583.51 4.583.51 4.583.51	256.31 254.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31 256.31	2,804,71 4,841,82 4,312,54 3,513,86 2,864,71 4,841,82 4,841,82 4,841,82 4,841,82 4,841,82 4,841,82 4,841,82 2,235,43
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othersy some yiele Keiser se Laide se Villa services service	219479 219474 219476 219477 219480 219484 219485 219486	1909 1906 1999 1999 1999 1909 1909 1909	90% 0 90% 0 80% 0 90% 0 90% 0 90% 0 90% 0 90% 0	000052913 000052915 000052915 000052913 000062913 000052913	\$8,228,50 \$11,211,50 \$11,211,50 \$9,965,60 \$11,211,50 \$11,211,50 \$11,211,50	2,546,40 4,563,51 4,563,51 4,074,23 4,563,51 4,563,51 4,563,51	254.31 254.31 254.31 256.31 256.31 256.31 256.31 256.31	3,313,86 2,864,71 4,841,82 4,332,64 4,841,82 4,841,82 4,841,82 4,841,82 2,253,43
wines yelle Asser le Luige le Villa series le Villa series le Marie le Villa series series	219474 219476 219477 219480 219484 219485 219486	1900 1990 1990 1999 1909 1992 1993	90% C 80% C 90% C 90% C 90% C 90% C	000052915 000052913 000052913 000052913 000052913 000052913	\$11,211,30 \$9,965,60 \$11,211,30 \$11,211,30 \$11,211,30	4,563,51 4,573,51 4,074,23 4,563,51 4,563,51 4,563,51	258.31 258.31 258.31 258.31 258.31 258.31	4,841,82 4,841,82 4,335,54 4,841,82 4,841,82 4,841,82 2,255,43
yeller Fesser In Lake In Utilia In Villa I	219450 219450 219464 219485 219486	1999 1999 1909 1909 1909	80% C 90% C 90% C 90% C 40% C	000052913 000052913 000052913 000052913	\$9,965,60 \$11,211,36 \$11,211,30 \$11,211,30	4,583.51 4,074.23 4,563.51 4,563.51 4,563.51	258.31 256.31 254.31 258.31 258.31	4.841.82 4.352.54 4.841.82 4.841.82 4.841.82 2.265.43
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w Vitis ochresis ochresi	219484 219485 219486	1909 190 <i>9</i> 1999	90% CC 90% CC 60% CC	000062913 000052913 000052913	\$11,211.30 \$11,211.50	4,583,51 1,585,51	258.31 258.31	4,841,82 4,841,82 4,841,82 2,285,43
Inhow Perk disend dend dend dend dend dend dend dend	219485 219486	1999 1999	90% C	000052913	\$11,211,30	4,543.51	258.31	1,841,82 2,255,43
diand dender den	219480	1999	90% CC	000052913	54.000 101		258.31	2,295.43
Condo Chosay Chosay of Pains b. K. Broad or Chara it usig or Saun it usig or Saun or Saun it usig or Saun it usig or Saun o	210482	1990		70032713		2,037.12	E 1 1 1	
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rol Polins N. Stoned se Chara se Chara st Leise serche of Shirl way gepror Creek sh Flishing fin Maren fin Maren physical sh Poline characte characte sh Poline characte ch	219190	1999	90% 00	200052913	\$11,211,30	3,056.67 4,583.51	258.31	3,313.98
In K. Browd The Claim St Laine St Laine St Laine Why Shift Why Shift S	219491	1999	BOX O	000052913	\$9,985,80	4.074.23	258.31	4,841.82
ote Chars If Liste If Miner If Mi	219402	1999	- 60% ICC	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	\$9,985.BC	4,074,23	258.31 258.31	4,332,51
IR Leice minocle or Skuff person pers	219495	1999	50% C0	000002913	\$9,966.60	4,074.25	256,31	4,332.64
rerole rer Ekuff rer Ekuff rereit rer	219496	1990	90% (0	00052013	\$6.228.50 311,211.50	2,546,40	256,31	2,804.71
may pper Creak dh Hilaken dh Hilaken dh Hilaken dh Miseri Heighta dh Palnike Creak dh Palnike Creak dh Palnike Creak dh Palnike dhaydaw up, S. W.F. sed ner Park dhivarar unisi Heights	219502	1999	60%/60	00052915	\$9,965.60	4,563.51	258.31	4,841,82
Spec Creek sh Halespi sh Halespi sh Marri sh Marri sh Painte makke riphise riphise riphise riphise riphise set set set set set set set set set s	219604	1999	- 00% CO	000082913	\$9,965,60	4,074.23	258.31 258.31	4,332,54
di Histori di Miseri di Miseri de spita di Miseri de spita di Pielide Dialde Dipoler Up, S. W. F. sed aut Park Owater wais Heights	219508	1908		00082913 00062913	\$9,985.80	4 074 23	256 31	4,332.54
of Miseri Mis	219507	1999	60% (9)	00053018	\$11,211.30	4,583.51	258.31 258.51	4,841,82
dh Miserd Heights th Painte makes rightev up, S.W.F. set ext ext ext ext ext ext ext ext ext e	219510 219512	TURW	90% CO	00062913	\$7,474.20 \$11,211.30	3,056,67	258.31	3,313,98
th Pointe thatco thatco thyorev up, S.W.F set set Park environ	219512	1990		00052913	\$0,065,50	4.583.51	264.31	4,641.82
righter up, S.W.F set set Park eltraria entites	219630	1990	00% 000	00062913	\$0,066,60 \$11,211,30	4,074,23	258.31 258.31	4,332,54
up, S.W.F Set set Park seri Park seris Heights	219531	1999	90% COX	00062913 00052913		4,583.51	258.31 258.31	4,332,64
set ert Perk Gwater onis Heights	219532	1999	60% CO	00052913	111,211.50	4,583.6	258.31	4,841,82
net Park Olivater unis Heights	219534 219535	1999	MON (CO)	0052913	\$7,474.20 \$9,965,60	3.055.67	258.31	3,313.06
anis Heights	7965	1999	40% C00	00052913	\$4,982.80	4,074.23 2,057,12	254.31	4,232.54
anis lieights	219539	1900		XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	\$7,474,20	3,058.67	254.31 284.31	1295.43
th Crowder	219546	1099	80% C00		\$11,211,30	4,563.51	258.31	3,313,66 4,841,82
dure island	219550	1999		0092913	\$9,965,60	4,074.23	256,31	4,332.34
cai	219554	1999	90% C00	0052613	\$11,211,30	4,503.51	258.31	4,841.82
r, Frances	219557	1909	80% CD0	0052913	\$9,965.60	4,563.51	258.31	4,841,82
Lakes	219558	1999	90% C00	U052913	\$11.711.30	1,583.51	258.31 258.31	4,332.54
ge Green	219550	1990	80% C00		\$9,565,60	4,074.23	768.51	4,841.82
lay Matthews	219580 219582	1999	90% C00	0052913	\$9,965.80 \$6,228.50	4,074,23	254.31	4,532.54
Laboratory		1999	80% (330)	0052913	\$9,965.60	2,546.40	268.31	2,804.71
Little River		1999	40% C00	0052913	\$4,982.80	4.074.23 2.037.12	255,31	4,332,51
pering Pinee	219564	1999 1999	90% C000	0052913	\$11,211,30	4,503,51	258.31 258.31	2,295,43
im Lehmen Ion Park	219564 219566 219568		50%/C000	0002013	\$4,228.50	2,548.40	264.31	2,804,71
Nest Hirston	219666 219668 219571	1999	400	0052913	\$6,228.50 \$7,474.20	2.548.46	258.31	2.604,71
Nacio Cir Mod	219584 219666 219668 219571 219573	1949				0 Acc 1	258.31	3,313.94
7	219666 219668 219571		80% 0000	0052013	\$9,945,60	3,058.87 4,074.23	258,31	4,332.54

CONFIDENTIAL TREATMENT REQUESTED

Funding Year:1 and 2 (1998-2000): 202 Elementary Schools Miami-Dade County

) La Allai, Sessa		E-Rate	USAC Wire		Amount Reimbursed to the SLD from Sprint	Amount Reimburned to the SLD	Total Amous
School Name	FRN Number	Funding Year	Discount	Transfer	USAC Wire	(471/bld	from Sprint	to the SLD
Finioch Park	219200	1900	Matrix	Number	Transfer Amount.	discrepancy	(returne)	from Sprint
Merrick Education			- 303	C000052913	\$11,211.50	4,583,51		4,641.6
Center	219261	1999		C000052913				70-14
witer Springs	219464	1999		C000002913	37,474.20	3,035.67	258,31	3,313.9
Vienetieh	53536	1996	ANG	C000027008	\$9,965.6C	4,074.23	258.31	4,332.5
eccia Lakes	83548	1906		C00002700s	\$4,981,00 \$5,561,13	<u>N</u> A	\$18.67	618.6
AFBURDALE SALAIFB	\$3562	1964	90%	C000027009	\$5,581,13	NA NA	616.57	\$16.4
en Shepperd	53570	1998	80%	C000027009	#4.981.00		616.67	1678
ACPYTIC .	65121 53562	1996 1996		C000027009	\$4,951.00	N/A	618.67 618.67	676.6 616.6
Sosyne Gerdone	62828	1998		C000027009	\$6,581,13	N/A	018.67	816.4
Proposition	62839	1996		C000027000	\$5,581.13	NA	616.67	818.6
rvedmoor	84266	1998	- 200	C000027009 C000027009	\$5,581.13	N/A	618.87	\$15.5
Proposit Drive	64279	1998		C000027009	\$5,581,13 \$5,661,13	N/A	816,67	\$16.6
erribbeen Omstock	64297	1998	90%	C000027009	45,581,13	- NA	616.67	\$16.6
ornatock oral Park	84311	1996	90%	C000027009 C006027009	35,581,13	100A	618.67	\$15.G
orate B. Fascol	84337 84592	1994	00%	C000027008	\$5,581.13	AWA	616.67	616.6
networt	84338	1998	90%	C000027000 I	\$5,501.13	NA	616.67	\$10.6 \$10.6
e Hall	61618	1995 1998		C000027009	\$5,581.13	N/A	\$18.87	\$15.6
cral Halpha	64712	1998	007	C000027009 C000027009	15,641,13	N/A	616.67	616.5
olden Güsdes	64750	1996		C000027009	\$5,581.13	N/A	618.67	6148.5
rationy	64758	1998		C000027000	\$3.561.13	- N/A	416.87	\$15.5
ntynoide Park	64837	1994		C000027005	\$5,561,13	NA NA	16,67	816.6
eya Angelou aleah Qordese	04942	1998		C000027009	14,961,00	AWA NA	610.47	618.6
roune City	64806	1998	90%	C000027009	\$6,581.13	NA	618.87 615.67	516.6
No C. Evens	64413	1998	5010	C000027009	\$5,581,13	N/A	516.67	916.6
de River	64930	1994	90%	C000027009	85,581.13	NA.	616.67	816.67
ade ives	54580	1998		C000027009	\$8,581.13	NA.	815.67	616.6
eriory 9. Douglas	64371	1998 1998		C000027009	\$5,591,13)	NA	616.67	616.87
non L, Kilon	64864	1998		C000027009 C000027009	\$6,581.13	N/A	616.67	810.6
M-CHI-	64950	1998		C000027009	\$5,581.13 \$5,561.13	N/A	818.67	815.57
rtural Bridge arth Country	64982	1096	90%	C000027009	\$5,561.13	N/A	\$15.57	616.67
ymple Heights	64960	1998	80%	C000027009	\$4,961.00	N/A	615.67	616.8
A COCKS	64974	1998	00%	C7000027008	\$4,961.00	N/A	616.67	A.b.e
m Springs	85063 66067	1998	90%	C0Q0027009	\$5,561,13	N/A	616.67	616.67 416.67
Dert Porter	64737	1998		C000027009	\$6,561.13	NYA	616.87	016.6
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R. Moton	54958	1896	90%	2000027009	\$5,581.13 \$6,581.13	NA	616,67	\$15,57
helond	\$5073	1998	80%	2000027009	\$4,961,00	N/A	618.67	618.67
rth Geach	64985	1998	80%	2000027009	H.951.00	NA.	610.67	\$16.57
olo Palra adomann	85088	1996	90%(C000027009 T	\$8,581.13	NA.	818.67	616.57
Mandout:	56101	1998	80%	2000027009	\$4,951,00	NA NA	616,67	616,67 616,67
Usteint L'Oyenure	66116	1998	90%	2000027000	\$5,581.13	NÃ	818.57	618.87
E Glacifor	62631	1908	90%	2000027009	\$6,581.13	N/A	816.67	616.67
Uer Ridge	64364	1998 199A	90%	2000027609	\$5,581,13	N/A	515,67	616,67
stvene	65145	1998		000027000	\$5,561,13	NA	\$18,67	£18.67
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Jaunuary 28, 2004

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January 28, 2004

Attachment #1

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Attachment #1

Attachment #1

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January 26, 2004

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Before the Federal Communications Commission Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of:

Federal-State Joint Board on Universal Service

Schools and Libraries Support Mechanism

CC Docket No: 02-6

To: The Commission

Revised Certificate of Service

It has come to the attention of the School Board of Miami-Dade County that our Motion to Compel Service by Sprint-Florida, Inc. was not properly served pursuant to FCC Rule 1.47. Accordingly, this pleading has been revised and is being reserved on all interested parties. While served electronically, it was not served in the form of a paper copy and as such, it is being hand served with the Secretary of the Commission today.

Respectfully Submitted,

Matthew L. Leibowitz

Leibowitz & Associates, P.A.

One SE Third Avenue, Suite 1450

Miami, Florida 33131

Counsel to Miami-Dade County Public Schools

January 21, 2005

EXHIBIT 8

LEIBOWITZ & ASSOCIATES, P.A.

JOSEPH A. BELISLE
ILA L. FELD
MATTHEW L. LEIBOWITZ
ELENI C. PANTARIDIS
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MIAMI, FLORIDA 33131-1715

TELECOPIER (305) 530-1322 TELECOPIER (305) 530-9417 E-MAIL FIRT @ DIORDIAW.COM

December 17, 2004

VIA FEDERAL EXPRESS AND FACSIMILE 202-766-0080

Mr. George McDonald Vice President Universal Service Administrative Company Schools & Libraries Division 2000 L Street N.W., Suite 200 Washington, DC 20036

RE: <u>Compliance with Schools and Libraries Support Mechanism</u>
Request for documentation

Dear Mr. McDonald:

The letter of December 6, 2004, from George MacDonald, Vice President of USAC to Rudolph F. Crew, Ed.D., Superintendent of Schools of Miami-Dade County Public Schools is, as noted therein, subject to Federal Communications Commission ("Commission") review under a timely filed appeal.

Accordingly, pursuant to § 54.721(d) of the Commission's Rules, MDCPS is entitled to full documentation of all allegations regarding prohibited conduct made by Sprint. These materials were improperly withheld from Miami-Dade County Public Schools ("MDCPS"). Thus, I hereby request that you provide us a complete copy of the August 28, 2003, appeal submitted by Sprint – Florida, Inc., and an un-redacted complete copy of the January 26, 2004 letter of appeal by Sprint-Florida with respect to the June 30, 2003, USAC request to Sprint for recovery of erroneous disbursed funds, 471, Application No. 140214; with respect to Dade County Public Schools (a/k/a Miami-Dade County Public Schools) for the funding year 1999. Given the short timeframe in which Miami-Dade has to appeal the December 6, 2004, letter, I would respectfully request that I receive the above-requested attachments in no more than five days from the date of receipt of this letter.

While the Commission's rule requires no showing of need and is mandatory in its language, by way of background, MDCPS believes that they need such documents to fully understand the

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Letter to Mr. George McDonald December 17, 2004 Page 2

nature of Sprint's allegations in order to fully respond. Furthermore, any argument by Sprint that the information contained in these letters must remain privileged and confidential due to sensitive pricing information is undermined by the fact that this pricing information, pursuant to state sunshine laws, are already part of the public record as they involve contracts with MDCPS.

Moreover, noting that Sprint alleges that it alone has spent 4500 hours conducting their internal investigations, MDCPS has an exceedingly burdensome task and limited timeframe to respond to these allegations. We believe that the complete Sprint documents will expedite MDCPS' review and preparation of its appeal.

If you have any questions, please feel free to contact me at your convenience.

Sincerely,

Matthew L. Leibowitz

cc: Kristy Carroll, Esq. (via facsimile (202) 776-0080) Sean Murphy, Esq. (via facsimile (913) 523-9641) **EXHIBIT 9**

LEIBOWITZ & ASSOCIATES, P.A.

JOSEPH A. BELISLE
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January 13, 2005

VIA E-MAIL foia@fcc.gov

Federal Communications Commission Office of the General Counsel 445 12th Street, S.W. Washington, DC 20554

RE: Request for Expedited Processing – Freedom of Information Act Request

In the Matter of Schools and Libraries Universal Service Support Mechanism CC Docket No. 02-6

Dear Sir or Madam:

Miami-Dade County Public Schools ("MDCPS"), through their counsel, hereby respectfully requests the Federal Communications Commission, pursuant to the Freedom of Information Act in accordance with 47 C.F.R. § 0.461, provide MDCPS with certain documents as more specifically described below.

We request the production of the following documents and all attachments thereto, without redaction:

- 1. Sprint Florida, Inc.'s ("Sprint") Appeal to the Universal Service Administration Company, Schools and Libraries Division, Request for Recovery of Erroneously Disbursed Funds, dated June 30, 2003, with respect to Form 471, Application No. 140214, Applicant: Dade County Public Schools a/k/a Miami-Dade County Public Schools. Funding Year 1999, Funding Request Numbers affected: All in Application No. 140214 plus others as specified in Attachment 1.
- 2. Sprint's Supplemental Response Notice of Appeal. Recovery of Erroneously Disbursed Funds dated June 30, 2003. Form 471, Application No. 140214, Applicant: Dade County Public Schools a/k/a Miami-Dade County Public Schools, Funding Year 1999, Funding Request Numbers Affected: All in Application No. 140214 plus others as specified in Attachment 1.

G:\Internet\2005\MDCPS\Corresp\Ltrs\Freedom of Information Act Request.wpd

MDCPS has been denied access to document number 1 and only recently been provided redacted copies of document 2, without any attachments. Thus, MDCPS has been denied its right pursuant to Section 54.721(d) to file a response with USAC contesting allegations against it made by Sprint. As a direct result, MDCPS has received a Suspension Letter from USAC deferring action on any pending or future funding requests for millions of dollars under the Schools and Libraries Universal Service Support Mechanism. MDCPS requires the documents in order to fully respond for the first time to allegations of prohibitive conduct made against it by Sprint in its appeal of the USAC letter dated December 6, 2004. The appeal is due on February 4, 2005.

It appears that Sprint has submitted the January 26, 2004 letter to USAC and requested USAC to keep the document confidential and limit its distribution. As a result, USAC provided MDCPS only a redacted copy of the of the January 26, 2004 letter as an attachment to the December 6, 2004 USAC letter to MDCPS. However, to the best of MDCPS's knowledge, Sprint failed to comply with § 0.459 of the Commission's Rules and never filed a formal request that these materials be withheld from public inspection. If Sprint did file any such request, it did not serve MDCPS with a copy, and thus denied MDCPS with an opportunity to oppose such treatment. Notwithstanding the above, in the event that some or all of these documents actually contain commercial or financial information or trade secrets that would be the legitimate basis for withholding them from routine public inspection, MDCPS respectfully requests the documents be made available pursuant to a Protection Order or Confidentiality Order, which would allow access and use of the documents by MDCPS and its representation to defend itself against allegations of prohibitive conduct contained in such documents.

Although MDCPS believes that it is entitled to service of these documents by Sprint, pursuant to § 54.721(d) of the Commissions Rules, MDCPS is prepared to pay up to \$500.00 for any search and review fees deemed necessary by the Commission. In the event additional charges may be incurred, please contact the undersigned counsel.

If you have any further questions, please do not hesitate to contact me at 305-530-1322.

Respectfully Submitted:

Matthew L. Leibowitz

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Counsel for Miami-Dade County Public Schools

cc: Kristy Carroll, Esq.
Sean Murphy, Esq.
Mr. George MacDonald
Narda Jones, Esq.
Vicki S. Robinson, Esq.
Anthony Dale, Esq.

EXHIBIT 10

Before the Federal Communications Commission Washington, D.C. 20554

In the Matter of:	<u>)</u>	
Federal-State Joint Board on Universal Service))) CC Dock	et No. 02-6
Schools & Libraries Support Mechanism)):)	

To: The Commission

Miami-Dade County Public Schools' Motion to Compel Service by Sprint-Florida, Inc.

1. Miami-Dade County Public Schools ("MDCPS") respectfully requests the Federal Communications Commission ("FCC") to issue an Order compelling Sprint-Florida, Inc. ("Sprint") to comply with FCC Rule §54.721(d) and provide copies of all pleadings, correspondence, documents, etc., that Sprint has provided and may provide in the future to the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") with respect to MDCPS's non-compliance with Schools and Libraries Support Mechanism Rules ("SLSM"). 1. 2

History of Proceeding

¹ MDCPS reserves its rights to include violations of § 54.721(b) in its appeal of the USAC December 6, 2004 letter.

² Recognizing the expeditious treatment by the Commission on Freedom of Information Act ("FOIA") requests and the minimum time remaining prior to filing MDCPS' appeal to the USAC December 6, 2004 letter, MDCPS filed an FOIA request, at USAC's suggestion, with the FCC on January 13, 2005 with respect to these documents. However, the grant of the FOIA will not result in future compliance with the Commission's service requirements, and thus, MDCPS believes the instant Motion is also appropriate.

3. On August 28, 2003, Sprint filed an Appeal of USAC's June 30, 2003 Request for Recovery of Erroneously Disbursed Funds ("Sprint Appeal"). Sprint failed to serve MDCPS with a copy of their Appeal. MDCPS also filed a Appeal of the June 30, 2003 Request on August 28, 2003. Subsequently, on January 26, 2004 Sprint filed a Supplemental Response to Notice of Appeal ("Supplement"). Sprint, in its Supplement, made numerous allegations of prohibitive misconduct by MDCPS. Again, Sprint failed to serve MDCPS with a copy of its Supplement.

MDCPS asserted that based on an actual inventory the correct amount of overfunding was not Four Hundred Thousand Eight Hundred Eighty-Eight Dollars and 30/100 (\$424,888.30), but One Hundred Sixty Thousand and Nine Hundred Ninety-Nine Dollars and 20/100 (\$160,994.20). MDCPS' appeal did not allege any prohibitive conduct by Sprint in its appeal.

- 4. On December 6, 2004, MDCPS received a letter from USAC ("Suspension Letter") suspending action on all pending or future FCC Forms 471 submitted by MDCPS until USAC determines that MDCPS has reasonably complied with certain requests contained in its Suspension Letter. Attached to the letter was a redacted copy of Sprint's Supplement. This was the first time MDCPS received a copy of the Supplement. The Suspension Letter was the direct result of issues raised by the Sprint Appeal, and the Supplement.
- 5. On December 16, 2004, counsel for MDCPS requested Sprint to provide MDCPS with copies of its Appeal, Supplement and attachments thereto. Unfortunately, Sprint has not yet responded.
- 6. On December 17, 2004, counsel for MDCPS sent a letter to USAC requesting USAC provide MDCPS un-redacted copies of Sprint's documents and attachments. A copy of this letter is attached hereto as Exhibit A. Counsel for USAC has orally informed counsel for MDCPS that USAC will not provide MDCPS the necessary Sprint documents, nor will it require Sprint to provide the documents to MDCPS.

Argument

- 7. Section 54.721(d) of the Commission's Rules provides, in relevant part, that "if a request for a review filed pursuant to § 54.720(a) through (e) alleges prohibitive conduct on the part of a third party, such request shall be served on the third party consistent with the requirements of service of documents set forth in §1.47 of this chapter...." Sprint's Appeal, and its Supplement were filed Pursuant to § 54.720(b).
- 8. In its January 26, 2004 Supplement, Sprint repeatedly accuses MDCPS of prohibitive conduct. Sprint's statements include allegations of misstatements on FCC Form 471 applications

made by MDCPS.* Sprint allegedly "identified a number of discrepancies between the Item 21 attachment submitted by Miami-Dade and Sprint's documentation for these transactions." Sprint alleged that Miami-Dade overstated the cost amounts for certain systems while Sprint's bid documents showed lower prices for these items. Sprint made allegations that MDCPS failed to include original equipment manufacturer discounts that were passed along to MDCPS by Sprint. Sprint made allegations that MDCPS FCC Form 471 failed to incorporate trade-in credits in calculating total equipment prices. Sprint even went so far as to allege that MDCPS asked Sprint to apply credits from E-rate eligible purchases toward the purchase of E-rate ineligible equipment.

- 9. It is also clear that USAC considered these allegations related to prohibitive conduct. In the Suspension Letter, USAC concludes that "The audit finding(s) and other issues identified by Sprint indicate that MDCPS failed to comply with one or more of the certifications that were made on program forms and/or that MDCPS has otherwise failed to comply with program requirements." Emphasis added. Based upon USAC's conclusion in its Suspension Letter, there can be no doubt that Sprint's pleadings included allegations of "prohibitive conduct" by MDCPS.
 - 10. Therefore, pursuant to § 54.721(d) of the Commission's Rules, Sprint was required

⁴ See Supplement at 2.

⁵ Id. at 6.

⁶ Id. at 8.

⁷ Id. at 8-9.

⁸ Id at 9,

⁹ Id.

¹⁰ See Suspension Letter at 2.

to serve MDCPS with its Appeal and its Supplement. Sprint violated the Commission's Rule by failing to do so.

11. Accordingly, we respectfully request an Order Compelling Sprint to provide full, complete and unreducted copies of its August 28, 2003 Appeal, its January 26, 2004 Supplemental Response to Notice of Appeal to MDCPS, and any documents related thereto, as well as serving MDCPS with any future documents related thereto.¹¹

Respectfully Submitted,

Matthew L. Leibowitz
Leibowitz & Associates, P.A.
One SE Third Avenue, Suite 1450
Miami, Florida 33131
Counsel to Miami-Dade County Public Schools

January 18, 2005

Apparently, at some unknown date, Sprint had made ex parte requests to USAC to keep this information confidential and limit distribution due to claimed "highly sensitive business information" contained therein. Notwithstanding that Sprint failed to file any request pursuant to §0.459 of the Commission's Rules and serve MDCPS with its request, USAC improperly accepted Sprint's uncontested assertions, redacted the Supplement provided to MDCPS and strongly urged MDCPS to keep the document confidential. MDCPS strongly believes that both USAC and Sprint violated the Commission's rules by redacting sections and withholding the documents from MDCPS and as a result denied MDCPS its rights to respond to any confidentiality request, and, alternatively to defend itself against allegations of prohibitive conduct prior to USAC's issuance of its Suspension Letter. However, given the necessity to timely appeal the Suspension Letter to demonstrate MDCPS' compliance with the SLSM and to seek reinstatement of millions of dollars of pending and future funding requests, MDCPS would agree to receive these documents under a Protection Order, so long as the documents are available to MDCPS and its representatives in order to defend itself against these stealth allegations.

EXHIBIT 11

Maria Alonso-Martinez

From:

Matthew L. Leibowitz

Sent:

Wednesday, December 22, 2004 10:59 AM

To:

'gmcdonald@universalservice.org'; 'Kristy Carroll Esq. (kcarroll@universalservice.org)'

Cc:

'osanpedro@dadeschools.net'; 'dkarcher@dadeschools.net'; 'tmachado@dadeschools.net'

Subject: Scope of Audit

Mr. George McDonald & Ms. Kristy Carrol:

On behalf of the Miami-Dade County Public Schools ("Miami-Dade"), I respectfully request that USAC reduce the scope of its inquiry and document request contained in your December 6, 2004 letter from George McDonald to Rudolph F. Crew, Ed. D ("Letter").

Specifically, the Letter requests that Miami-Dade provides information and documentation addressing **any and all** service providers, for the period covering Funding Year 1999 through current, regarding certain alleged improper actions by Miami-Dade.

While Miami-Dade will address its concerns to the Letter in its Appeal to the FCC, we wish to bring to SLD's attention the enormous burden the above referenced requests would place on Miami-Dade. It is estimated that to successfully meet the scope of this request, it would be necessary for the entire team of Miami-Dade's field technicians (consisting of thirty individuals) to dedicate their time exclusively to this project for approximately nine (9) months to a year. This time period is consistent with the 4500 hours that Sprint allegedly spent in their individual effort. This far exceeds the 6 month period in which USAC will reserve funds to make commitments on pending FCC Form 471s. The total estimated direct costs only for this effort would exceed \$2 Million. In addition, since all available field technicians would be working full time on this project, the normal technical operations and maintenance district would have to either be shut down or contracted out to a third party. Such third party contracting would cost in excess of an additional \$2.5 Million, thereby bringing the total expenditure to over \$4.5 Million.

Accordingly, at this time, we respectfully propose a more narrowly tailored approach to the alleged violations. Specifically, we suggest that Miami-Dade audit, through a random sampling, the next largest service provider of equipment for the originally audited period, July 1, 1999 through June 30, 2000. Miami-Dade would focus its audit on the specific issues raised by USAC and Sprint. In the event that USAC may require more information after their review of this material, Miami-Dade would comply.

Please contact me back at your convenience so that we may further discuss these proposed possibilities.

Respectfully submitted,

Matthew L. Leibowitz

Matthew L. Leibowitz, Esq. (Mleibowitz@broadlaw.com)

LEIBOWITZ & ASSOCIATES, P.A.

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